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By E-mail & USPS Regular Mail

Douglas McKenna, Chief
Water Compliance Branch
Division of Enforcement & Compliance Assistance
290 Broadway, 20th Floor
New York, NY 10007-1866

Joseph DiMura, P.E., Director
Bureau of Water Compliance Programs
Division of Water, NYSDEC
625 Broadway
Albany, NY 12233-3506

Re: New York City Department of Environmental Protection's Sewer Backup
Prevention and Response Plan

Dear Mr. McKenna and Mr. DiMura,

I write to provide a clarification regarding DEP's treatment of recurring backups under the SOAP program, and to transmit the Hansen Database sewer backup data for Fiscal Year 2017.

Recurring Backups

In previous correspondence between the City and EPA dated June 14, 2017, regarding DEP's Sewer Backup Prevention and Response Plan, EPA requested that DEP define a backup that would trigger a referral to DEP's SOAP as a backup that occurs more than once in a segment in a rolling one-year period. DEP responded by letter dated July 23, 2017, that it has determined that the trigger set forth in the Sewer Backup Prevention and Response Plan, a backup that recurs more than once in a rolling three-month period, should remain the trigger to ensure the data collected over the three-year Pilot period remain consistent with existing program data, and that DEP would consider whether to revise the trigger at the end of the Pilot period. In a letter dated August 10, 2017, EPA reiterated that its view that a recurring

backup should be a backup that occurs at least twice in a rolling 12-month period and that this definition should be used during the Pilot program. DEP suggests that the agencies discuss the appropriate recurrence period further at the planned semi-annual technical meeting in mid-February 2018.

Additionally, in the course of reviewing EPA's request, DEP discovered an ambiguity regarding its SOAP practices for recurring backups. Specifically, the SOAP Guideline in effect as of December 3, 2012 did not specify whether the three-month period that defines recurring backups under DEP's program would be calculated on a rolling basis or a fixed quarterly basis. DEP has determined that it has used a rolling three-month period or a quarterly period at different times to determine what qualifies as a recurring backup under SOAP, with the most recent practice, pre-dating the Pilot program, being to calculate recurring backups on a fixed quarterly basis, not a rolling three-month basis. However, the Sewer Backup Prevention and Response Plan provided to EPA specifies that DEP defines SOAP segments as those street segments that have more than one Confirmed SBU within a rolling three-month period. DEP began using this rolling period to identify recurring backups as of December 1, 2017. DEP analyzed the April, May and June 2017 data for the July SOAP report, and is now looking at the subsequent rolling three months (i.e., May, June and July for August; June, July, August for September, etc.) to ensure no locations that should have been classified as SOAP were missed. The SOAP Guideline has been updated to reflect the rolling three-month period method for identifying SOAP segments, and the updated Guideline, effective as of December 18, 2017, is attached.

Hansen Data

Finally, as agreed to between the City and EPA and memorialized in letters dated December 22, 2016 and January 23, 2017, enclosed please find a disk containing sewer backup data from DEP's Hansen Database for Fiscal Year 2017, which ended on June 30, 2017. The data format is consistent with prior productions of Hansen data to EPA. We apologize for the late transmittal of this data.

Sincerely,



Carrie Noteboom
Senior Counsel
Environmental Law Division

c: Robin Levine
Marcella Eckels
William Plache